BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

DIANA WOOD Claimant	}
VS.	/)) Docket No. 162,883
BREWERS' COUNTRY MART Respondent) Docket No. 102,003
AND	
UNITED STATES FIDELITY & GUARANTY CO. Insurance Carrier	/)

ORDER

Claimant appeals from a Preliminary Hearing Order of January 12, 1995, wherein Administrative Law Judge Robert H. Foerschler denied both of claimant's requests for vocational rehabilitation benefits and temporary total disability benefits.

Issues

Claimant alleges the Administrative Law Judge erred when he denied vocational rehabilitation benefits and temporary total disability benefits. The issues before the Appeals Board are:

- (1) Whether the Appeals Board has jurisdiction to review the findings of the Administrative Law Judge at this juncture of the proceeding.
- (2) If the Appeals Board has jurisdiction, whether the Administrative Law Judge erred by failing to grant claimant's requests.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds the Administrative Law Judge is given the authority by K.S.A. 1990 Supp. 44-510g to decide issues pertaining to vocational rehabilitation benefits. Likewise, K.S.A. 44-534a grants the Administrative Law Judge the authority to determine entitlement to temporary total disability benefits for medical reasons. The claimant may dispute the factual findings made by the Administrative Law Judge that support the denial of vocational rehabilitation and temporary total, but this does not deprive the Administrative Law Judge of his authority to make such findings and order.

After examining both K.S.A. 44-551, as amended by Senate Bill 59, and K.S.A. 44-534a, the Appeals Board finds the subject Order of January 12, 1995, is neither a final order which can be reviewed by the Appeals Board nor does this appeal raise one of the issues considered jurisdictional under K.S.A. 44-534a. Consequently, the Appeals Board does not have jurisdiction to review the issues raised by this appeal. The claimant argues the Appeals Board has jurisdiction because the respondent has raised the issue whether the psychological condition is related to claimant's accidental injury. The argument is without merit. The question whether claimant's psychiatric difficulties are related to the work accident or some other source of distress deals with the issue of nature and extent of injury rather than one of the jurisdictional issues enumerated in K.S.A. 44-534a.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this appeal should be, and hereby is, dismissed. The Preliminary Hearing Order entered by Administrative Law Judge Robert H. Foerschler on January 12, 1995, remains in full force and effect.

Dated this	day of March, 1995.	
	BOARD MEMBER	
	BOARD MEMBER	
	BOARD MEMBER	

c: Miles D. Mustain, Kansas City, KS Ronald J. Laskowski, Topeka, KS Robert H. Foerschler, Administrative Law Judge George Gomez, Director

IT IS SO ORDERED.